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SUPREME COURT, U.S.

No. 90-741

IN THE

Supreme Court of the United States

OCTOBER TERM, 1990

ALETHA DEWSNUP,

Petitioner,

v.

LOUIS L. TIMM, JOHN NEIUWLAND and FLOYD M. CHILDS, Trustees of the UNITED PRECISION MACHINE AND ENGINEERING COMPANY PROFIT-SHARING TRUST, ABCO INSURANCE AGENCY, INC., and JOSEPH L. HENROID, as Trustee for the Annette Jacob Trust,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

---

JOINT APPENDIX

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DEENA B. JENAB
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Counsel for Respondents

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

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RELEVANT DOCKET ENTRIES

I. United States Bankruptcy Court for the District of Utah

1. January 21, 1987 —Complaint filed
2. March 5, 1987 —Amended Complaint filed
3. March 27, 1987 —Answer to Amended Complaint To Determine Validity of Lien filed
4. June 9, 1987 —Pre-trial Order filed
5. June 11, 1987 —Defendants' Trial Brief filed
6. June 23, 1987 —Plaintiff's Trial Brief filed
7. June 25, 1987 —Pre-trial Order Entered
8. June 25, 1987 —Trial
9. July 1, 1987 —MIN. ENT. filed on TRIAL (held 6/25/87)—Clark) The value of the Deseret property of $28,800 and value of the Oak City property is $10,200.
10. June 15, 1988 —Memorandum Opinion filed
11. August 15, 1988 —Judgment of Dismissal filed
12. September 16, 1988—Notice of Appeal filed

II. United States District Court for the District of Utah

1. March 15, 1989 —Order Affirming Judgment of Bankruptcy Court filed
2. May 15, 1989 —Appeal filed

III. United States Court of Appeals for the Tenth Circuit

1. July 11, 1990 —Opinion filed

IV. United States Supreme Court

1. February 19, 1991 —Petition for Writ of Certiorari granted

IN THE DISTRICT COURT
OF THE FOURTH JUDICIAL DISTRICT
IN AND FOR MILLARD COUNTY
STATE OF UTAH

Civil No. 7191

LOUIS L. TIMM, *et al.*,
Plaintiffs,

vs.

LAMAR DEWSNUP, *et al.*,
Defendants.

NOTICE OF FILING OF PETITION IN BANKRUPTCY AND NOTICE OF AUTOMATIC STAY

[Filed Jul. 25, 1984]

TO THE PLAINTIFF AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on Wednesday, the 27th day of June, 1984, LaMar Dewsnup and Aletha Dewsnup, the defendants herein, filed a Chapter 7 petition in the United States Bankruptcy Court for the District of Utah.

PLEASE TAKE FURTHER NOTICE that the filing of said Chapter 7 petition, under 11 U.S.C. § 362, automatically stays all proceedings against LaMar Dewsnup and Aletha Dewsnup.

DATED this 23rd day of July, 1984.

PRINCE, YEATES & GELDZAHLER

By /s/ Rosalie E. Walker
ROSALIE E. WALKER
Attorneys for LaMar Dewsnup
and Aletha Dewsnup

[Certificate of Service Omitted in Printing]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

Bankruptcy No. 84C-01746

IN RE: LAMAR DEWSNUP and ALETHA DEWSNUP,
Debtors.

Adversary Proceeding No. 87PC-0116

LAMAR DEWSNUP and ALETHA DEWSNUP,
Plaintiffs,

-vs-

LOUIS L. TIMM, JOHN NEIUWLAND and FLOYD M. CHILDS, Trustees of the UNITED PRECISION MACHINE AND ENGINEERING COMPANY, PROFIT-SHARING TRUST, ABCO INSURANCE AGENCY, INC., JOSEPH L. HENROID, as Trustee for the Annette Jacob Trust,
Defendants.

AMENDED COMPLAINT TO DETERMINE VALIDITY OF LIEN

PARTIES AND JURISDICTION

Plaintiffs complain of Defendants as follows:

1. The Plaintiffs are residents of the State of Utah.

2. Upon information and belief, Plaintiffs allege that Defendants, Louis L. Timm, John Neiuwland and Floyd M. Childs, Trustees of the United Precision Machine and Engineering Company Profit-Sharing Trust are residents of the State of Utah.

3. Upon information and belief Plaintiffs allege that Defendant, ABCO Insurance Agency, Inc., is incorporated under the laws of the State of Utah and has its principal place of business in the State of Utah.

4. Upon information and belief, Plaintiff alleges that Defendant, Joseph L. Henroid, as Trustee for the Annette Jacob Trust, is a resident of the State of Utah.

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157(b).

6. This is a core proceeding under the meaning of 28 U.S.C. § 157(b)(2)(K).

7. Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

FIRST CAUSE OF ACTION

8. On or about June 1, 1978, Plaintiffs executed a Trust Deed with Defendants as beneficiary and Plaintiffs as Trustor in the amount of $119,000.00.

9. On or about December 3, 1980, Plaintiffs paid in full, the underlying note which is secured by the Trust Deed alleged in paragraph 8 of this Complaint.

10. The debt owed by the Plaintiffs to the Defendants arising from the note secured by the June 1, 1978 Trust Deed has been satisfied in full. The Trust Deed should have been released and is no longer valid.

11. The Trust Deed dated June 1, 1978 with Plaintiffs as Trustor and Defendants as beneficiaries, should be removed from the record on the property of the Plaintiffs.

SECOND CAUSE OF ACTION

12. This Second Cause of Action is alleged alternatively and/or in supplement to the First Cause of Action in this Complaint. Therefore, the allegations contained in

paragraphs 1 through 11 of this Complaint are realleged and made part of this Second Cause of Action.

13. In addition to the Trust Deed mentioned in Plaintiffs' First Cause of Action, Defendants claim to have a judgment lien on Defendants' property in the amount of $49,966.21, plus interest from April, 1981, costs and attorney's fees.

14. Defendants claim that the $49,966.21 judgment is also secured by the Trust Deed mentioned in the First Cause of Action of this Complaint.

15. Defendants claim that their Trust Deed and judgment lien attach to Plaintiffs' property located near Deseret, Utah, specifically described in Exhibit "A" attached hereto, and Plaintiffs' property located near Oak City, Utah, specifically described in Exhibit "B" attached hereto.

16. The value of the 160 acres of Plaintiffs' property located near Deseret, Utah, as of the time of the filing of this action, was $24,000.00.

17. The value of Defendants' property located near Oak City of the 56 acres of Plaintiffs' property located near Oak City, Utah, as of the time of the filing of this action was $8,500.00.

18. Pursuant to 11 U.S.C. § 506(d), the security interests of Defendants, including the Trust Deed and judgment lien, are invalid to the extent that they exceed the value of the debtors' property upon which they attach. The security interests of the Defendants are invalid to the extent they are unsecured.

19. The security interests of the Defendants can be satisfied in full by Plaintiffs remitting to the Defendants the fair market value of the property upon which the security interest attaches. The remainder of Defendants' claims against Plaintiffs are unsecured.

THIRD CAUSE OF ACTION

20. This cause of action is alleged as an alternative and/or supplement to the first two causes of action alleged in this Complaint. Therefore, Plaintiffs reallege the allegations made in paragraphs 1 through 19 and incorporate them as part of this cause of action.

21. Defendants obtained a judgment against Plaintiffs on April 24, 1981.

22. Plaintiffs filed a Chapter 11 bankruptcy case in the United States Bankruptcy Court for the District of Utah on April 22, 1981.

23. The judgment and judgment lien obtained by Defendants in April of 1981 are void under 11 U.S.C. § 362 as they were entered after Plaintiffs filed their Petition in bankruptcy.

WHEREFORE, debtors pray that:

1. The Court enter an order removing the June 1, 1978 Trust Deed, with Defendants as beneficiary, from the property of the debtors because the underlying note has been satisfied and the Trust Deed is invalid.

2. The Court enter an order avoiding Defendants' security interest on the real property of the Plaintiffs to the extent that the security interest exceeds the value of the real property under 11 U.S.C. § 506(d).

3. The Court enter an order voiding the April 24, 1981 judgment in favor of Defendants under 11 U.S.C. § 362.

4. For such other relief as the Court deems appropriate under the circumstances.

DATED this 3rd day of March, 1987.

McKAY, BURTON & THURMAN

By /s/ William Thomas Thurman
WILLIAM THOMAS THURMAN
SCOTT C. PIERCE
Attorneys for Debtors

[Certificate of Service Omitted in Printing]

EXHIBIT "A"

Parcel 3:

The Southwest quarter of the Northeast quarter; the Northwest quarter of the Southeast quarter; the Southeast quarter of the Northwest quarter and the Northeast quarter of the Southwest quarter of Section 13, Township 18 South, Range 8 West, Salt Lake Base and Meridian.

EXCEPTING THEREFROM that portion lying within the boundaries of the County Road right-of-way.

EXCEPTING THEREFROM (Parcel 3) all rights of way, stock trails, ditches and canals, gravel pits and gravel beds.

* * * *

EXHIBIT "B"

The land referred to in this report is situated in the County of Millard, State of Utah, and is described as follows:

Parcel 1:

Beginning 980 feet West of the Southeast corner of the Southwest quarter of Section 4, Township 17 South, Range 4 West, Salt Lake Base and Meridian, thence North 1320 feet; thence West 1264 feet; thence South 625 feet, more or less, to the North boundary of Road right-of-way; thence Southeasterly along the Road right-of-way 541 feet; thence South 470 feet; thence East 840 feet to the point of beginning.

Parcel 2:

Beginning 980 feet West of the Northeast corner of the Northwest quarter of Section 9, Township 17 South, Range 4 West, Salt Lake Base and Meridian; thence South 1320 feet; thence West 840 feet; thence North 1320 feet; thence East 840 feet to the point of beginning.

EXCEPTING THEREFROM that portion lying within the boundaries of the County Road right-of-way.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

Bankruptcy No. 84C-01746

IN RE: LAMAR DEWSNUP and ALETHA DEWSNUP,
Debtors.

Adversary Proceeding No. 87PC-0116

LAMAR DEWSNUP and ALETHA DEWSNUP,
Plaintiffs,

vs.

LOUIS L. TIMM, JOHN NEIUWLAND and FLOYD M. CHILDS, Trustees of the UNITED PRECISION MACHINE AND ENGINEERING COMPANY, PROFIT-SHARING TRUST, ABCO INSURANCE AGENCY, INC., JOSEPH L. HENROID, as Trustee for the Annette Jacob Trust,
Defendants.

ANSWER TO AMENDED COMPLAINT TO DETERMINE VALIDITY OF LIEN

COME NOW, Defendants, by and through their attorney Michael Z. Hayes, and hereby answer Plaintiffs' Amended Complaint to Determine Validity of Lien as follows:

FIRST DEFENSE

1. Plaintiffs' Complaint and the whole thereof fails to state a cause of action upon which relief may be granted.

SECOND DEFENSE

2. In answer to the specific paragraphs of Plaintiffs' Complaint, Defendants admit paragraphs 1 through 8, and 13, 14, 15, 21 and 22 of Plaintiffs' Complaint.

3. Defendants deny paragraphs 9, 10, 11, 16, 17, 18, 19, 22, and 23 of Plaintiffs' Complaint.

4. In answer to paragraphs 12 and 20 of Plaintiffs' Complaint, Defendants reallege their answers to the other numbered paragraphs of said Complaint.

5. Defendants deny each and every allegation of the Complaint not heretofore admitted, denied or modified.

AFFIRMATIVE DEFENSE

6. As an affirmative defense to Plaintiffs' Third Cause of Action Defendants allege that the Chapter 11 Bankruptcy Case filed on April 22, 1981 was subsequently dismissed by this Court, having the affect under bankruptcy law of returning the parties to their respective conditions immediately before the filing, which in effect, reinstated Defendant's Judgment against Plaintiffs.

WHEREFORE, having fully answered Plaintiffs' Complaint, Defendants pray that the same be dismissed with prejudice, Plaintiffs' taking nothing thereby, and that these Defendants be awarded their costs incurred in defending this action and further that they be awarded the relief presently requested by them in this Court for relief from stay and an order allowing them to proceed with the foreclosure proceedings on Plaintiffs' property.

DATED this 26th day of March, 1987.

/s/ Michael Z. Hayes
MICHAEL Z. HAYES

[Certificate of Service Omitted in Printing]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

Bankruptcy No. 84C-01746

IN RE: LAMAR DEWSNUP and ALETHA DEWSNUP,
Debtors.

Adversary Proceeding No. 87PC-0016

LAMAR DEWSNUP and ALETHA DEWSNUP,
Plaintiffs,

vs.

LOUIS L. TIMM, JOHN NEIUWLAND and FLOYD M. CHILDS, Trustees of the UNITED PRECISION MACHINE AND ENGINEERING COMPANY, PROFIT-SHARING TRUST, ABCO INSURANCE AGENCY, INC., JOSEPH L. HENROID, as Trustee for the Annette Jacob Trust,
Defendants.

PRE-TRIAL ORDER

Based upon a stipulation of the parties and the Bankruptcy Rules of Procedure, the following Pre-Trial Order is entered by the Court.

1. *JURISDICTION.* The jurisdiction of this Court is based upon 28 U.S.C. § 1334 and 28 U.S.C. § 157(b). This matter is a core proceeding under the meaning of 28 U.S.C. § 57(b)(2)(k). Jurisdiction is not disputed and is hereby determined to be present.

2. *VENUE.* Venue is proper in this District under 28 U.S.C. §§ 1408 and 1409. Venue is not in dispute and is hereby determined to be proper.

3. *GENERAL NATURE OF PARTIES' CLAIMS.*

(a) *Plaintiffs' Claims.*

(1) On or about June 1, 1978, Plaintiffs executed a deed of trust with Defendants as beneficiary and Plaintiffs as trustor in the amount of $119,000.00.

(2) On or about December 3, 1980, Plaintiffs paid, in full, the underlying note which was secured by the Trust Deed dated June 1, 1978.

(3) The Trust Deed dated June 1, 1978 still appears of record against Plaintiffs' property and has never been released. Plaintiffs claim that the Trust Deed dated June 1, 1978 should have been released upon payment in December of 1980. Plaintiffs seek to have this trust deed removed as against Plaintiffs' property by court order in this action.

(4) Plaintiffs claim that pursuant to 11 U.S.C. § 506 (d) that in any event, the trust deed and judgment lien currently of record, to which Defendants are beneficiaries, are invalid to the extent that they exceed the value of Plaintiff's property. Therefore, the security interest of Defendants can be satisfied in full by Plaintiffs remitting to Defendants the fair market value of the property upon which the security interest attaches. In other words, Plaintiffs can redeem the property by paying to Defendants the fair market value of the property even if Defendants trust deed and lien are determined to be valid by the Court. The remaining claims Defendants may have against Plaintiffs are unsecured.

(5) Plaintiffs claim that Defendants' judgment and judgment lien obtained in April of 1981 are void and of no effect under 11 U.S.C. § 362 because the judgment was entered after Defendants filed bankruptcy on April 22, 1981.

(b) *Defendant's Claims.*

(1) Defendants deny that Plaintiffs paid the Trust Deed dated June 1, 1978 in full on or about December 3, 1980. Defendants claim that they paid additional money pursuant to a document entitled "Assignment of Contract" dated June 1, 1978 whereby Defendants paid a sum of money to bring the contract current and claim that amount was added to the note secured by the deed of trust.

(2) Additionally, Defendants claim that they have a judgment lien on the property in the amount of the judgment which was signed April 22, 1981 and entered by the Court Clerk April 24, 1981, and deny that that judgment is void under 11 U.S.C. § 362 because the bankruptcy case filed on April 22, 1981 was subsequently dismissed and further that Plaintiffs have either waived or are estopped from claiming the judgment is void in these proceedings.

(3) Defendants deny that Plaintiffs may redeem the property by paying to Defendants the fair market value and thereby avoiding the remainder of Defendants' lien.

4. *UNCONTESTED FACTS.* The following facts are established by admissions in the pleadings or by stipulation of counsel.

(a) On or about June 1, 1978, Plaintiffs executed a Trust Deed with Defendants as beneficiary and Plaintiffs as trustor in the amount of $119,000.00.

(b) On or about December 3, 1980, Plaintiffs paid to Defendants' attorney the sum of $151,013.89 through the trust account of Plaintiffs' former attorney, Robert Fillerup, on or about December 3, 1980 and December 8, 1980.

(c) The property effected by the trust deed and Defendants' subsequent judgment lien is in two parcels which are described in Exhibits "A" and "B" attached hereto.

(d) Plaintiffs and Defendants entered into an agreement dated June 1, 1978 entitled Assignment of Contract, whereunder Plaintiffs assigned to Defendants all of their interest in a contract of sale for real property entered into with Arrow Investment Company, Ltd., as sellers and Plaintiffs as buyers. The agreement specifically states that its purpose is to secure the three notes of $56,000.00 to ABCO Insurance; $33,000.00 to Joseph L. Henriod, Trustee for the Annette Jacob Trust and $30,000.00 to the United Machine and Engineering Company Profit-Sharing Trust, which notes were also secured by the Trust Deed on the property as mentioned above.

(e) In an attempt to protect the additional security for the loan, Defendants expended an additional Forty-seven Thousand Eight Hundred Eighty Dollars and Fifty Cents ($47,880.50) to bring the first mortgage current on the property relating to the Arrow Investment Co. contract. In addition, Defendants paid two Thousand Eighty-five Dollars and Seventy-one Cents ($2,085.71) for back taxes to the Millard County Treasurer.

(f) Defendants filed a complaint on or about September 16, 1980 in which they sought to foreclose Plaintiffs' interest in the real property attached as Exhibits "A" and "B" and for other claims. On or about March 3, 1981, Plaintiffs filed a motion for summary judgment in that action.

(g) On April 22, 1981, Plaintiffs filed for bankruptcy in the United States Bankruptcy Court for the District of Utah.

(h) On April 14, 1981, Defendants Motion for Summary Judgment was heard and granted by Judge J. Harlan Burns. Judge Burns signed the Judgment April 22, 1981, and it was entered by the Court Clerk on April 24, 1981.

(i) Plaintiffs' first Bankruptcy was dismissed on April 1, 1982. A subsequent Bankruptcy was dismissed with

prejudice on February 13, 1984. Subsequently Plaintiffs filed the present Chapter 7 case which is now pending before the Court.

5. *CONTESTED ISSUES OF FACT.*

(a) Whether or not the debt owed to Defendants pursuant to the Assignment of Contract entered into by the parties on June 1, 1978, where Defendants paid a sum of money to bring a contract current, was secured by the Trust Deed dated June 1, 1978.

(b) Whether or not Plaintiffs' payment to Defendants on or about December 3 and 8, 1980, paid in full the notes and all obligations which were secured by the Trust Deed dated June 1, 1978.

(c) What is the fair market value of the Plaintiffs' property described in Exhibits "A" and "B"?

6. *CONTESTED ISSUES OF LAW.*

(a) Is the summary judgment signed by Judge Burns on April 22, 1981 and entered in favor of Defendants by the Fifth District Court for the State of Utah on April 24, 1981, two days after Plaintiffs filed a Chapter 11 bankruptcy, null and void under 11 U.S.C. Section 362 as being in violation of the automatic stay?

(b) What effect did the Dismissal of Plaintiffs' Bankruptcy have on the Judgment obtained by Defendants against Plaintiffs?

(c) Are Plaintiffs either estopped or barred from bringing this action in the current Bankruptcy Proceeding before the Court?

(d) In the event that the summary judgment granted in favor of Defendants on April 24, 1981 is valid, did it create additional debt that was secured by the Trust Deed dated June 1, 1978?

(e) Are Defendants' security interests invalid to the extent they vceed the value of the debtors' property upon which they attach, and can the Debtors/Defendants satisfy Defendants' security interest by tendering to Defendants the market value of the property?

7. *EXHIBITS.* The following exhibits will be in the absence of reasonable notice, submitted into evidence at trial by the parties. The parties hereby stipulate to the authenticity of these exhibits, but reserve objections to the admittance of the exhibits into evidence:

(a) Plaintiffs' Exhibits:

(1) Trust Deed dated June 1, 1978.

(2) The notes secured by the Trust Deed dated June 1, 1978.

(3) Copy of a check dated December 3, 1980 in the amount of $147,613.89 payable to Wendell E. Bennett, attorney at law.

(4) A check dated December 8, 1980 in the amount of $3,400.00 payable to Robert C. Fillerup in reference paid pursuant to the Dewsnup settlement.

(5) A copy of the Assignment of Contract entered into between the parties dated June 1, 1978.

(6) Summary judgment granted in favor of Defendants in the Fifth Judicial District Court for Millard County, State of Utah, Case No. 7191 entered on April 24, 1981.

(b) Defendants' Exhibits:

(1) Findings of Fact, Conclusions of Law and Order regarding Dismissal of Plaintiffs' Bankruptcy Case #82C-02046, dated February 13, 1984.

(2) Disclosure Statement of Plaintiffs in Bankruptcy #82C-02046, dated June 22, 1983.

(3) Stipulation and Order in Bankruptcy #82C-02046, dated May 25, 1983.

(4) Order of Dismissal in Plaintiffs' Bankruptcy Case #81-01367, dated April 1, 1982.

(5) Letter from Wendell Bennett to Robert Fillerup dated April 15, 1981.

(6) Letter from Wendell Bennett to Robert Fillerup dated April 9, 1981.

(7) Letter from Wendell Bennett to Robert Fillerup dated February 27, 1981.

(8) Letter from Wendell Bennett to Robert Fillerup dated December 19, 1980.

(9) Letter from Wendell Bennett to Robert Fillerup dated November 24, 1980.

(c) Exhibits received in evidence may be withdrawn from the Clerk's office upon signing of receipts therefor by the respective parties offering them to be returned to the Clerk's office within a reasonable time and in the meantime, to be available for inspection at the request of other parties. Exhibits which have not been received, but which are hereby identified, shall be presented to, and marked for identification by the Clerk of the Court prior to trial.

(d) Except as otherwise indicated, the authenticity of the foregoing exhibits have been stipulated but they have been received subject to objections, if any, by the opposing counsel at the trial as to the relevancy and materiality.

8. *WITNESSES.*

(a) In the absence of reasonable notice to opposing counsel to the contrary, Plaintiffs will call as witnesses:

Aletha Dewsnup

Robert Fillerup

(b) In the absence of reasonable notice to opposing counsel to the contrary, Defendants will call as witnesses:

Wendell Bennett

(c) In the event that other witnesses are to be called, their names and addresses and the general subject matter of their testimony will be served upon opposing counsel and filed with the Court at least three (3) days prior to trial. This restriction shall not apply to rebuttal witnesses, the necessity of whose testimony reasonably cannot be anticipated before the time of trial.

9. *REQUESTS FOR INSTRUCTION.* This case is to be tried by the Court.

10. *AMENDMENTS TO PLEADINGS.* There are no requests to amend pleadings.

11. *DISCOVERY.* Discovery has been completed.

12. *TRIAL SETTING.* The case has been set for trial without jury on June 25, 1987 beginning at 9:00 o'clock a.m.

13. *SETTLEMENT.* Counsel has conferred respecting settlement of this matter and settlement is considered poor. Trial will not be postponed to allow the conduct of further settlement negotiations except upon a showing of good cause.

DATED this — day of June, 1987.

BY THE COURT:

GLEN E. CLARK
U.S. Bankruptcy Court Judge

McKAY, BURTON & THURMAN

By /s/ William Thomas Thurman
WILLIAM THOMAS THURMAN
SCOTT C. PIERCE
Attorneys for Plaintiffs

MAZURAN, VERHAAREN & HAYES

By /s/ Michael Z. Hayes
MICHAEL Z. HAYES
Attorneys for Defendants

EXHIBIT "A"

Parcel 3:

The Southwest quarter of the Northeast quarter; the Northwest quarter of the Southeast quarter; the Southeast quarter of the Northwest quarter and the Northeast quarter of the Southwest quarter of Section 13, Township 18 South, Range 8 West, Salt Lake Base and Meridian.

EXCEPTING THEREFROM that portion lying within the boundaries of the County Road right-of-way.

EXCEPTING THEREFROM (Parcel 3) all rights of way, stock trails, ditches and canals, gravel pits and gravel beds.

• • • •

EXHIBIT "B"

The land referred to in this report is situated in the County of Millard, State of Utah, and is described as follows:

Parcel 1:

Beginning 980 feet West of the Southeast corner of the Southwest quarter of Section 4, Township 17 South, Range 4 West, Salt Lake Base and Meridian, thence North 1320 feet; thence West 1264 feet; thence South 625 feet, more or less, to the North boundary of Road right-of-way; thence Southeasterly along the Road right-of-way 541 feet; thence South 470 feet; thence East 840 feet to the point of beginning.

Parcel 2:

Beginning 980 feet West of the Northeast corner of the Northwest quarter of Section 9, Township 17 South, Range 4 West, Salt Lake Base and Meridian; thence South 1320 feet; thence West 840 feet; thence North 1320 feet; thence East 840 feet to the point of beginning.

EXCEPTING THEREFROM that portion lying within the boundaries of the County Road right-of-way.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

Use of form: This form is to be used only in asset cases. It must be submitted, in duplicate, to the trustee (not the court). If mailed, the creditor must include a stamped, self-addressed envelope. Important: Even if the trustee signs the notice of abandonment, the creditor should not take any action against the debtor without first determining that such action is not prohibited by 11 U.S.C. § 362(c).

REQUEST FOR ABANDONMENT

Debtor's Name—Lamar Dewsnup & Aletha Dewsnup

Bankruptcy #84C-01746

Trustee—Roger Segal

Description of Secured Property—Real Property described on Exhibit A & B attached.

Value of Property—$39,000

Basis of Valuation—Book, Appraisal, Estimate, Other—Bankruptcy Court Valuation

Amount Owed to Creditor on Secured Obligation—$49,966.21 + Interest & Att. Fees from 6/2/80.

The above information is true to the best of my knowledge and belief. Attached to this request are documents that reflect a properly perfected security interest in the property listed above. As a secured creditor, I request that the trustee abandon the property from the bank-

ruptcy estate, subject to any interest of the debtor, and issue a written notice of abandonment.

/s/ Michael Z. Hayes
Creditor's Signature
Attorney for United Precision Machine & Engineering Company Profit Sharing Trust, ABCO Insurance Agency, Inc. and Joseph L. Henroid, Trustee for the Annette Jacob Trust.

MICHAEL Z. HAYES
Printed Name
2180 South 1300 East, #260
Address
Salt Lake City, UT
484-6161
Telephone No.
84106
Zip Code

NOTICE OF ABANDONMENT

Pursuant to 11 U.S.C. § 554, I have found the above listed property burdensome to the estate, or of inconsequential value to the estate. I have given notice of my intent to abandon such property during the meeting of creditors, and there being no objection, or request for hearing, the trustee hereby abandons any interest that the estate may have in and to said property.

DATE: July 11, 1988

/s/ [Illegible]
Trustee

EXHIBIT 'A'

BEGINNING 980 feet West of the Southeast Corner of the Southwest ¼ of Section 4, Township 17 South, Range 4 West, Salt Lake Base & Meridian; thence North 1320 feet; thence West 1264 feet; thence South 625 feet; thence Southeasterly along the roadway 541 feet; thence South 470 feet; thence East 840 feet to beginning. More or less 35 Acres.

BEGINNING 980 feet West of the Northeast Corner of the Northwest ¼ of Section 9, Township 17 South, Range 4 West, Sale Lake Base & Meridian; thence South 1320 feet; thence West 840 feet; thence North 1320 feet; thence East 840 feet to beginning. More or less 25 Acres.

EXHIBIT 'B'

The Southwest quarter of the Northeast quarter; of the Northwest quarter of the Southeast quarter; the Southeast quarter of the Northwest quarter; and the Northeast quarter of the Southwest quarter of Section 13, Township 18 South, Range 8 West, Salt Lake Base and Meridian.

EXCEPTION THEREFROM that portion which lies within the boundaries of the DELTA CANAL COMPANY, MELVILLE IRRIGATION COMPANY, ABRAHAM IRRIGATION COMPANY and the DESERET IRRIGATION COMPANY distribution systems.

EXCEPTING THEREFROM all rights of way, stock trails, ditches and canals, gravel pits and gravel beds.

WHEN RECORDED, MAIL TO:
EARL JAY PECK
NIELSEN, HENRIOD, GOTTFREDSON & PECK
116 410 Newhouse Building
Salt Lake City, Utah 84111
521-3350

Space Above This Line For Recorder's Use

A M E N D E D

TRUST DEED

With Assignment of Rents

THIS TRUST DEED, made this 1st day of June, 19 78

between T. LaMAR DEWSNUP and ALETHA DEWSNUP

, as TRUSTOR,

whose address is DESERET UTAH
(Street and number) (City) (State)

EARL JAY PECK, as TRUSTEE,* and
UNITED PRECISION MACHINE & ENGINEERING COMPANY PROFIT SHARING TRUST, ABCO INSURANCE AGENCY, INC. and JOSEPH L. HENRIOD, as trustee for the Annette Jacob Trust
, as BENEFICIARY,

WITNESSETH: That Trustor CONVEYS AND WARRANTS TO TRUSTEE IN TRUST,

WITH POWER OF SALE, the following described property, situated in Millard County, State of Utah:

PARCEL ONE: See Exhibit 'A' hereto
PARCEL TWO: See Exhibit 'B' hereto

25008
REQUESTED AT REQUEST OF
Nielsen, Henriod, Gottfredson & Peck
DATE June 9, 1978 TIME 2:30 P.M.
BOOK 128 OF REC. PAGE 116-121 FEE $ 10.00
Kathy Martin
RECORDER OF MILLARD COUNTY, UTAH
By Lorraine Stapley Deputy

Together with all buildings, fixtures and improvements thereon and all water rights, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances thereunto belonging, now or hereafter used or enjoyed with said property, or any part thereof. SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits;

FOR THE PURPOSE OF SECURING (1) payment of the indebtedness evidenced by a promissory notesof even date herewith, in the principal sum of $ 33,000; $56,000 & $30,000, made by Trustor, payable to the order of Beneficiary at the times, in the manner and with interest as therein set forth, and any extensions and/or renewals or modifications thereof; (2) the performance of each agreement of Trustor herein contained; (3) the payment of such additional loans or advances as hereafter may be made to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Trust Deed; and (4) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided.

*NOTE: Trustee must be a member of the Utah State Bar, a bank, building and loan association or savings and loan association authorized to do such business in Utah; a corporation authorized to do a trust business in Utah; or a title insurance or abstract company authorized to do such business in Utah.

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TO PROTECT THE SECURITY OF THIS TRUST DEED, TRUSTOR AGREES:

1. To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting said property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general; and, if the loan secured hereby or any part thereof is being obtained for the purpose of financing construction of improvements on said property, Trustor further agrees:

(a) To commence construction promptly and to pursue same with reasonable diligence to completion in accordance with plans and specifications satisfactory to Beneficiary, and

(b) To allow Beneficiary to inspect said property at all times during construction.

Trustee, upon presentation to it of an affidavit signed by Beneficiary, setting forth facts showing a default by Trustor under this numbered paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

2. To provide and maintain insurance, of such type or types and amounts as Beneficiary may require, on the improvements now existing or hereafter erected or placed on said property. Such insurance shall be carried in companies approved by Beneficiary with loss payable clauses in favor of and in form acceptable to Beneficiary. In event of loss, Trustor shall give immediate notice to Beneficiary, who may make proof of loss, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Beneficiary instead of to Trustor and Beneficiary jointly, and the insurance proceeds, or any part thereof, may be applied by Beneficiary, at its option, to reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged.

3. To deliver to, pay for and maintain with Beneficiary until the indebtedness secured hereby is paid in full, such evidence of title as Beneficiary may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto.

4. To appear in and defend any action or proceeding purporting to affect the security hereof, the title to said property, or the rights or powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum incurred by Beneficiary or Trustee.

5. To pay at least 10 days before delinquency all taxes and assessments affecting said property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with said property; to pay, when due, all encumbrances, charges, and liens with interest, on said property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees, and expenses of this Trust.

6. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: Make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Beneficiary or Trustee being authorized to enter upon said property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights of powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title, employ counsel, and pay his reasonable fees.

7. To pay immediately and without demand all sums expended hereunder by Beneficiary or Trustee, with interest from date of expenditure at the rate of ten per cent (10%) per annum until paid, and the repayment thereof shall be secured hereby.

IT IS MUTUALLY AGREED THAT:

8. Should said property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorney's fees, apply the same on any indebtedness secured hereby. Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary or Trustee may require.

9. At any time and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Trust Deed and the note for endorsement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of said property. The grantee in any reconveyance may be described as "the person or persons entitled thereto", and the recitals therein of any matters or facts shall be conclusive proof of truthfulness thereof. Trustor agrees to pay reasonable Trustee's fees for any of the services mentioned in this paragraph.

10. As additional security, Trustor hereby assigns Beneficiary, during the continuance of these trusts, all rents, issues, royalties, and profits of the property affected by this Trust Deed and of any personal property located thereon. Until Trustor shall default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Trustor shall have the right to collect all such rents, issues, royalties, and profits earned prior to default as they become due and payable. If Trustor shall default as aforesaid, Trustor's right to collect any of such moneys shall cease and Beneficiary shall have the right, with or without taking possession of the property affected hereby, to collect all rents, royalties, issues, and profits. Failure or discontinuance of Beneficiary at any time or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, nor an assumption of liability under, nor a subordination of the lien or charge of this Trust Deed to any such tenancy, lease or option.

11. Upon any default by Trustor hereunder, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court (Trustor hereby consenting to the appointment of Beneficiary as such receiver), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue for or otherwise collect said rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

12. The entering upon and taking possession of said property, the collecton of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of said property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

13. The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiary of any default shall not constitute a waiver of any other or subsequent default.

14. Time is of the essence hereof. Upon default by Trustor in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause said property to be sold to satisfy the obligations hereof, and Trustee shall file such notice for record in each county wherein said property or some part or parcel thereof is situated. Beneficiary also shall deposit with Trustee, the note and all documents evidencing expenditures secured hereby.

15. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient, postpone the sale from time to time until it shall be completed and, in every case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; provided, if the sale is postponed for longer than one day beyond the day designated in the notice of sale, notice thereof shall be given in the same manner as the original notice of sale. Trustee shall execute and deliver to the purchaser its Deed conveying said property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorney's fees; (2) cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed, (3) all sums expended under the terms hereof, not then repaid, with accrued interest at 10% per annum from date of expenditure; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place.

16. Upon the occurrence of any default hereunder, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property and Beneficiary shall be entitled to recover in such proceeding all costs and expenses incident thereto, including a reasonable attorney's fee in such amount as shall be fixed by the court.

17. Beneficiary may appoint a successor trustee at any time by filing for record in the office of the County Recorder of each county in which said property or some part thereof is situated, a substitution of trustee. From the time the substitution is filed for record, the new trustee shall succeed to all the powers, duties, authority and title of the trustee named herein or of any successor trustee. Each such substitution shall be executed and acknowledged, and notice thereof shall be given and proof thereof made, in the manner provided by law.

18. This Trust Deed shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, adminstrators, executors, successors and assigns. All obligations of Trustor hereunder are joint and several. The term "Beneficiary" shall mean the owner and holder, including any pledgee, of the note secured hereby. In this Trust Deed, whenever the context requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

19. Trustee accepts this Trust when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Trust Deed or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

20. This Trust Deed shall be construed according to the laws of the State of Utah

21. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to him at the address hereinbefore set forth.

Signature of Trustor

I. LaMar Dewsnup

Martha Dewsnup

(If Trustor an Individual)

STATE OF UTAH
COUNTY OF) ss.

On the 1st day of June, A.D. 1978, personally appeared before me I. LaMar Dewsnup & Martha Dewsnup, the signer(s) of the above instrument, who duly acknowledged to me that they executed the same.

Notary Public residing at: Duchesne, Utah

My Commission Expires:
Nov. 4, 1980

(If Trustor a Corporation)

STATE OF UTAH
COUNTY OF) ss.

On the ..... day of ....., A.D. 19....., personally appeared before me ....., who being by me duly sworn, says that he is the ..... of ....., the corporation that executed the above and foregoing instrument and that said instrument was signed in behalf of said corporation by authority of its by-laws (or by authority of a resolution of its board of directors) and said ..... acknowledged to me that said corporation executed the same.

Notary Public residing at:

My Commission Expires:

REQUEST FOR FULL RECONVEYANCE

(To be used only when indebtedness secured hereby has been paid in full)

TO: TRUSTEE.

The undersigned is the legal owner and holder of the note and all other indebtedness secured by the within Trust Deed. Said note, together with all other indebtedness secured by said Trust Deed has been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Trust Deed, to cancel said note above mentioned, and all other evidences of indebtedness secured by said Trust Deed delivered to you herewith, together with the said Trust Deed, and to reconvey, without warranty, to the parties designated by the terms of said Trust Deed, all the estate now held by you thereunder.

Dated ....., 19.....

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Mail reconveyance to .....

TRUST DEED

With Assignment of Rents

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TO

AS TRUSTEE FOR

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Dated ....., 19.....

FORM 142—TRUST DEED. LONG FORM—KELLY CO 55 W NINTH SOUTH, S L C, UTAH

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25008

BEGINNING 980 feet West of the Southeast Corner of the Southwest 1/4 of Section 4, Township 17 South, Range 4 West, Salt Lake Base & Meridian; thence North 1320 feet; thence West 1264 feet; thence South 625 feet; thence Southeasterly along the roadway 541 feet; thence South 470 feet; thence East 840 feet to beginning. More or less 35 Acres

BEGINNING 980 feet West of the Northeast Corner of the Northwest 1/4 of Section 9, Township 17 South, Range 4 West, Salt Lake Base & Meridian; thence South 1320 feet; thence West 840 feet; thence North 1320 feet; thence East 840 feet to beginning. More or less 25 Acres.

EXHIBIT 'A'

25008

The Southwest quarter of the Northeast quarter; of the Northwest quarter of the Southeast quarter; the Southeast quarter of the Northwest quarter; and the Northeast quarter of the Southwest quarter of Section 13, Township 18 South, Range 8 West, Salt Lake Base and Meridian.

EXCEPTIN THEREFROM that portion which lies within the boundaries of the DELTA CANAL COMPANY, MELVILLE IRRIGATION COMPANY, ABRAHAM IRRIGATION COMPANY and the DESERET IRRIGATION COMPANY distribution systems.

EXCEPTING THEREFROM all rights of way, stock trails, ditches and canals, gravel pits and gravel beds.

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EXHIBIT 'B'

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Loan No. .....

PROMISSORY NOTE

$ --56,000.00-- June 1, 19 78

FOR VALUE RECEIVED, the undersigned promise(s) to pay to Abco Insurance Agency, Inc.

or order, ----------Fifty-six thousand and no/100---------- DOLLARS, ($ --56,000.00-),

together with interest from date at the rate of eighteen per cent, (-18- %) per annum on the unpaid balance payable as follows, viz:

All accrued interest shall be paid on June 1, 1979; the entire balance of interest and principal shall be paid on or before June 1, 1980, provided, however, that no payment shall be permitted prior to June 1, 1979

in lawful money of the United States of America, negotiable and payable at the office of 410 Newhouse Building, Salt Lake City, Utah, 84111

without defalcation or discount. All payments hereinabove provided for shall be applied first on accrued interest and balance to reduction of principal. Any installments of principal and interest not paid when due shall, at the option of the legal holder hereof, bear interest thereafter at the rate of -10%- per annum until paid.

In case of default in the payment of any installment of principal or interest as herein stipulated, then it shall be optional with the legal holder of this note to declare the entire principal sum hereof due and payable; and proceedings may at once be instituted for the recovery of the same by law, with accrued interest and costs, including reasonable attorney's fees.

The makers and endorsers severally waive presentment, protest and demand; and waive notice of protest, demand and of dishonor and non-payment of this note, and expressly agree that this note, or any payment thereunder, may be extended from time to time without in any way effecting the liability of the makers and endorsers thereof.

This note and the interest thereon is secured by a first ~~xxxxxxx~~ Trust Deed dated June 1, 1978, covering real property in Millard County, Utah.

T. LaMar Dewsnup

Alethe Dewsnup

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$ -33,000.00-- June 1, 19 78

FOR VALUE RECEIVED, the undersigned promise(s) to pay to Joseph L. ...ried, Trustee for the Annette Jacob Trust or order. ----------Thirty-three thousand and no/100---------- DOLLARS, ($ -33,000.00-), together with interest from date at the rate of eighteen per cent. (-18-%) per annum on the unpaid balance payable as follows, viz:

All accrued interest shall be paid on June 1, 1979; the entire balance of interest and principal shall be paid on or before June 1, 1980, provided, however, that no prepayment shall be permitted prior to June 1, 1979

in lawful money of the United States of America, negotiable and payable at the office of 410 Newhouse Building, Salt Lake City, Utah, 84111 without defalcation or discount. All payments hereinabove provided for shall be applied first on accrued interest and balance to reduction of principal. Any installments of principal and interest not paid when due shall, at the option of the legal holder hereof, bear interest thereafter at the rate of -10%- per annum until paid.

In case of default in the payment of any installment of principal or interest as herein stipulated, then it shall be optional with the legal holder of this note to declare the entire principal sum hereof due and payable; and proceedings may at once be instituted for the recovery of the same by law, with accrued interest and costs, including reasonable attorney's fees.

The makers and endorsers severally waive presentment, protest and demand; and waive notice of protest, demand and of dishonor and non-payment of this note, and expressly agree that this note, or any payment thereunder, may be extended from time to time without in any-way effecting the liability of the makers and endorsers thereof.

This note and the interest thereon is secured by a first ~~Mortgage~~ Trust Deed dated June 1, 1978, covering real property in Millard County, Utah.

T. LaMar Dewsnup

T. LaMar Dewsnup

Aletha Dewsnup

Aletha Dewsnup

FORM 812—MORTGAGE NOTE—KELLY CO., 33 W. NINTH SOUTH, S.L.C., UTAH

Exhibit "B"

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ASSIGNMENT OF CONTRACT

THIS AGREEMENT by and between T. LAMAR and ALETHA DEWSNUP, hereinafter referred to as the assignors, and Trustees of UNITED PRECISION MACHINE AND ENGINEERING COMPANY PROFIT SHARING PLAN, ABCO INSURANCE AGENCY, INC. and JOSEPH L. HENRIOD, Trustee for the Annette Jacobs Trust, hereinafter referred to as the assignees.

WHEREAS, under date of November 26, 1976, ARROW INVESTMENT COMPANY, LIMITED, as sellers, entered into a Uniform Real Estate Contract with T. LAMAR DEWSNUP and ALETHA DEWSNUP, as buyers, which contract is delivered herewith, wherein and whereby the said sellers agreed to sell and the said buyers agreed to purchase, upon the terms, conditions, and provisions therein set forth, all that certain land, with the buildings and improvements thereon, erected, situate, lying and being in the County of Millard, State of Utah and more particularly described in Exhibit 'A' attached hereto.

WHEREAS, the assignees desire to acquire from the assignors all of the right, title and interest of the assignors in said property above described as evidenced by said written agreement.

NOW, THEREFORE, it is hereby mutually agreed as follows:

1. That the assignors in consideration of the Payment of Ten Dollars and other good and valuable consideration, the receipt of which is hereby acknowledged, assign to the assignees, all their right, title and interest in and to said above described property as evidenced by the aforesaid Uniform Real Estate Contract of November 26, 1976, concerning the above described property.

2. That to induce the assignees to pay the said sum of money and to accept the said contract, and the rights

obligation pursuant thereto the assignors hereby represent to the assignees as follows:

(a) That the assignors have duly performed all the conditions of said contract.

(b) That the contract is now in full force and effect and that the unpaid balance of said contract is $323,000, with interest paid to the 2nd day of January, 1978.

(c) That said contract is assignable.

3. This assignment is to secure three notes of the same date as follows:

$56,000 to Abco Insurance Agency, Inc.

$33,000 to Joseph L. Henriod, Trustee for the Annette Jacob Trust

$30,000 to United Precision Machine and Engineering Company Profit Sharing Trust

4. Assignors agree that in the event they are in default that assignees may make the payments due under and pursuant to said contract and will be reimbursed for the same by assignors.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the first day of June, 1978.

/s/ T. LaMar Dewsnup
Assignor

/s/ Aletha Dewsnup
Assignor

/s/ Joseph L. Henriod
Attorney for Assignees
Assignee

STATE OF UTAH)
ss.
COUNTY OF SALT LAKE)

On the first day of June, 1978, personally appeared before me T. LAMAR and ALETHA DEWSNUP, the signers of the above instrument, who duly acknowledged to me that they executed the same.

/s/ Dixie K. Robinson
Notary Public
Residing at Salt Lake City, Utah

My commission expires:
5-9-79

IN THE SUPREME COURT
OF THE UNITED STATES

[Title Omitted in Printing]

Order Granting Petition for Writ of Certiorari entered 19 February 1991.